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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,421	09/30/2005	Don Stephan Engelbrecht	2001-1403	3847

466 7590 10/12/2007
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EXAMINER

THOMAS, ALEXANDER S

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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10/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,421

Applicant(s)

ENGELBRECHT, DON STEPHAN

Examiner

Alexander Thomas

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-14 and 16-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 11-14 and 16-22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-14 and 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK patent document 2209041 in view of the German patent document 20116169 and Ruby 5,232,762. Applicant's arguments have been considered but are not deemed persuasive. Applicant argues that the distance between the blocks in Ruby is not the same as the thickness of the blocks and that Figures 9, 10 and 11 therein show an embodiment in which the blocks are prevented from contacting each other and include a second sheet. Applicant further argues that Figures 12 and 14 of Ruby show an embodiment wherein the blocks are not spaced from one another and therefore does not suggest the instant invention. However, Ruby also discloses a different embodiment in Figure 13 that has spaced blocks without a second sheet. The structure in Figure 13 does not appear to show a spacing between the blocks equal to the thickness of the blocks, but there is disclosure at the last four lines of the Abstract that suggests that the spacing may be varied to provide the desired bending properties. Therefore, it would have been obvious to one of ordinary skill in the art to adjust the spacing of the blocks in the prior art product to provide the desired bending of the product in view of this suggestion in Ruby.

Concerning new claims 21 and 22, Figure 12 shows the use of blocks in the form of a slabs, i.e. the blocks have a length and width greater than their thickness, it would have been obvious to one of ordinary skill in the art to use any size block and any amount of said blocks in order to provide the bending properties for a particular end use.

3. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK patent document 2209041 in view of the German patent document 20116169 and Watts 5,549,942. The primary reference discloses the invention substantially as claimed, namely a pillar protector comprising a impact absorbing blanket 4 and a plastic sleeve 2 fitted around the blanket; see Figure 2. The outer surface of the sleeve may be printed with indicia and provided with a closure means; see the Abstract and claims. However, the primary reference does not teach a segmented impact absorbing layer formed from foam with particles therein. The German patent document discloses the use of a foam matrix containing particles as an impact absorbing layer in a pillar protecting product; see the instant specification page 1, lines 7-12. It would have been obvious to one of ordinary skill in the art to use a foam matrix containing particles as taught in the German patent document as the impact layer in the product of the primary reference in order to provide a desired degree of pillar protection. Adjusting the size of filler material in the foam composition is well within the purview of one of ordinary skill in the art in order to optimize physical properties of the layer.

Watts discloses the technique of providing spaces between four slabs of material that are positioned on a strip material in order to fold the product into an orthogonal orientation, the slabs all have a length and width greater than their thickness and the spacing between the slabs is equal to the thickness of the slabs; see column 4, lines 3-22. It would have been obvious to one of ordinary skill in the art to provide the product of the primary reference with four spaced slabs of insulation having a length and width greater than their thickness and a spacing between the slabs equal to the thickness of the slabs as taught in the secondary reference in order to cover a square or rectangular post.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Thomas/
Primary Examiner
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